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December 23, 2023

VIA ECF TO:

The Honorable Vernon S. Broderick
United States District Court
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 415
New York, NY 10007

RE: Dass v. CUNY, et al., Case No. 18-CV-11325 (VSB) (OTW)

Dear Judge Broderick:

I am counsel for the plaintiff Krishna Dass (“Plaintiff”) in the above-referenced action. I submit this letter in opposition to Defendants’ counsel’s belated request to bust the summary judgment schedule to which she had previously agreed.

On September 29, 2022, Plaintiff filed an objection to Magistrate Ona T. Wang’s (“Judge Wang’s”) decision denying Plaintiff leave to amend her complaint. The objection was fully submitted to Your Honor on November 9, 2022 (the “Pending Motion”).

Two months ago, when the parties originally jointly proposed the current summary judgment briefing schedule, Defendants’ counsel agreed that “the Parties do not believe that the resolution of the [Pending] Motion should delay briefing motions for summary judgment.” See September 15, 2023 Joint Letter to Court (ECF Doc. No. 212).

Two weeks ago, when this office reached out to Defendants’ counsel, and Judge Wang “so ordered” the stipulated summary judgment schedule, Defendants’ counsel remained silent.

Two days ago, Defendants’ counsel asked Judge Wang to modify the stipulated summary judgment schedule. Defense counsel did not claim ignorance of the Pending Motion. Rather, she stated that when she had agreed to it on September 15, 2023, she was “‘optimistic’ that the [Pending Motion] would be resolved by this time.” See Defendants’ Counsel’s December 21, 2023 Letter to Judge Wang (ECF Doc. No. 219, p. 1). Defendants’ counsel offered no reason to delay further this five-year-old lawsuit, other than the hollow speculation that “if Plaintiff is granted leave to amend, that may impact Defendants’ anticipated motion and/or discovery.” Id.

Notably, Judge Wang denied Defendants' counsel's request to modify the current briefing schedule, stating, "This case is no longer referred to me, but since this concerns a schedule that I entered during the GPT referral, to the extent that I still have authority to address it, I would deny it." See December 21, 2023 Order (ECF Doc. No. 221).

Finally, in her letter to You Honor, Defendants' counsel raises a new issue concerning her work load as an excuse to further delay this case. However, the magnitude of this case has not changed at all since September, when she originally agreed to the current briefing schedule. Moreover, as recently as two days ago, when Defendants' counsel made her unsuccessful application to Magistrate Judge Wang, it did not occur to her to try to use her other professional obligations to bump this one.

Consequently, where Defendants' counsel agreed to the current motion schedule, and has offered no substantial reason to modify the schedule, it is respectfully submitted that Defendants' request to modify the current summary judgment schedule be denied.

Respectfully submitted,

/s

Todd J. Krouner

TJK:cwd

cc: Karen Rhau, Esq.
(via ECF)